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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-2049

ANGELA LORRAINE HERRERA
7348 Valeria Drive Apt. 15
Highland, California 92346

A C C U S A T I O N

Respiratory Care Practitioner License No. 21012

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California (Board), Department of Consumer Affairs.

2. On or about August 19, 1999, the Board issued Respiratory Care Practitioner License Number 21012 to Angela Lorraine Herrera (Respondent). This license was valid at all times relevant to the charges brought herein and will expire on April 30, 2007, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board under the authority of the

1 following laws. All section references are to the Business and Professions Code unless otherwise
2 indicated.

3 4. Section 3710 of the Code states: “The Respiratory Care Board of
4 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter
5 8.3, the Respiratory Care Practice Act].”

6 5. Section 3718 of the Code states: “The board shall issue, deny, suspend,
7 and revoke licenses to practice respiratory care as provided in this chapter.”

8 6. Section 3750 of the Code states:

9 “The board may order the denial, suspension or revocation of, or the imposition of
10 probationary conditions upon, a license issued under this chapter, for any of the following
11 causes:

12 “ . . .

13 “(g) Conviction of a violation of any of the provisions of this chapter or of any
14 provision of Division 2 (commencing with Section 500), or violating, or attempting to
15 violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to
16 violate any provision or term of this chapter or of any provision of Division 2
17 (commencing with Section 500). . . .”

18 7. Section 3750.5 of the Code states:

19 “In addition to any other grounds specified in this chapter, the board may deny,
20 suspend, or revoke the license of any applicant or license holder who has done any of the
21 following:

22 “ . . .

23 “(b) Used any controlled substance as defined in Division 10 (commencing with
24 Section 11000) of the Health and Safety Code. . . .

25 8. Section 492 of the Code states:

26 “Notwithstanding any other provision of law, successful completion of any
27 diversion program under the Penal Code, or successful completion of an alcohol and drug
28 problem assessment program under Article 5 (commencing with section 23249.50) of

1 Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established
2 under Division 2 ([Healing Arts] commencing with Section 500) of this code, or any
3 initiative act referred to in that division, from taking disciplinary action against a licensee
4 or from denying a license for professional misconduct, notwithstanding that evidence of
5 that misconduct may be recorded in a record pertaining to an arrest."

6 COST RECOVERY

7 9. Section 3753.5, subdivision (a) of the Code states:

8 "In any order issued in resolution of a disciplinary proceeding before the board,
9 the board or the administrative law judge may direct any practitioner or applicant found to
10 have committed a violation or violations of law to pay to the board a sum not to exceed
11 the costs of the investigation and prosecution of the case."

12 10. Section 3753.7 of the Code states:

13 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall
14 include attorney general or other prosecuting attorney fees, expert witness fees, and other
15 administrative, filing, and service fees."

16 11. Section 3753.1, subdivision (a) of the Code states:

17 "An administrative disciplinary decision imposing terms of probation may
18 include, among other things, a requirement that the licensee-probationer pay the monetary
19 costs associated with monitoring the probation."

20 CONTROLLED SUBSTANCE

21 12. Methamphetamine is a Schedule II controlled substance pursuant to Health
22 and Safety Code Section 11055.

23 CAUSE FOR DISCIPLINE

24 (Use of a Controlled Substance)

25 13. Respondent is subject to disciplinary action under sections 3750,
26 subdivision (g) and 3750.5, subdivision (b) of the Code, in that she used the controlled substance
27 methamphetamine. The circumstances are as follows:

28 A. On or about December 21, 2005, while respondent was checking in to

1 visit an inmate at West Valley Detention Center, a Los Angeles County deputy sheriff
2 noticed that she had dilated pupils and eyelid tremors. When the deputy asked her if she
3 had ever done any drugs, respondent said she smoked a bowl of methamphetamine earlier
4 that day. The deputy found a pink-colored crystal substance in respondent's purse which
5 she said was methamphetamine. Respondent admitted that she buys methamphetamine
6 once a week and that she has been smoking it for about 10 years. She was arrested for
7 possession of a controlled substance on jail grounds.

8 B. On or about April 26, 2006, a complaint was filed against respondent
9 in a criminal proceeding entitled *People v. Angela Lorraine Herrera*, in Municipal Court,
10 San Bernardino County, Case Number MWV104386, charging her with possession of the
11 controlled substance methamphetamine, a violation of Health and Safety Code section
12 11377(a), a misdemeanor (count 1), and using and being under the influence of the
13 controlled substance methamphetamine, a violation of Health and Safety Code section
14 11550(a), a misdemeanor (count 2).

15 C. On or about July 11, 2006, respondent was convicted by a plea of
16 guilty to using and being under the influence of the controlled substance
17 methamphetamine (count 2). The court deferred entry of judgment and respondent was
18 placed on diversion for 18 months pursuant to Penal Code section 1000.2. Respondent
19 was ordered to complete a drug diversion program. Count 1 of the complaint was
20 dismissed.

21 DISCIPLINE CONSIDERATIONS

22 14. To determine the degree of discipline, if any, to be imposed on
23 Respondent, Complainant alleges that on or about April 11, 2006, respondent was issued Citation
24 No. C-06-0193 by the Board for commission of any fraudulent, dishonest or corrupt act, a
25 violation of Code section 3750, subdivision (j). The Board also ordered respondent to pay a fine
26 in the amount of \$2,500.00. The Citation was based on the following. On or about August 18,
27 2005, respondent was terminated from her employment as a respiratory care practitioner for
28 altering and fraudulently cashing another employee's paycheck in the amount of \$1,736.88.

1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

4 1. Revoking or suspending Respiratory Care Practitioner License Number
5 21012 issued to Angela Lorraine Herrera;

6 2. Ordering Angela Lorraine Herrera to pay the Respiratory Care Board the
7 costs of the investigation and enforcement of this case, and if placed on probation, the costs of
8 probation monitoring;

9 3. Taking such other and further action as deemed necessary and proper.

10 DATED: January 10, 2007

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13 Original signed by Liane Zimmerman for:
14 STEPHANIE NUNEZ
15 Executive Officer
16 Respiratory Care Board of California
17 Department of Consumer Affairs
18 State of California
19 Complainant
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